

**From:** [Alt, Nicole](#)  
**To:** [Odell - DNR, Eric](#)  
**Cc:** [Reid Dewalt](#); [Hughes, John P](#); [Becker, Scott A](#)  
**Subject:** Re: [EXTERNAL] 10(j) Talking points for internal CPW use  
**Date:** Thursday, March 31, 2022 4:26:45 PM  
**Attachments:** [10\(i\) talking points for CPW.docx](#)

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Thanks Eric. I appreciate you taking the time to think through the questions and develop these talking points. These are challenging policy issues to communicate and communicating intent is important. Our recommendation is to start from the premise that CPW requested a 10(j), and then list the reasons why you believe it is the better alternative. Let's discuss on Friday if you have questions. Thank you.

Nicole

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**From:** Odell - DNR, Eric <[eric.odell@state.co.us](mailto:eric.odell@state.co.us)>  
**Sent:** Friday, March 25, 2022 12:21 PM  
**To:** Alt, Nicole <[Nicole\\_Alt@fws.gov](mailto:Nicole_Alt@fws.gov)>; Becker, Scott A <[scott\\_becker@fws.gov](mailto:scott_becker@fws.gov)>  
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**Subject:** [EXTERNAL] 10(j) Talking points for internal CPW use

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Hi Nicole and Scott-  
I have attached a bulleted list of talking points for CPW to use internally to describe why 10(j) is the preferred tool. Please review for accuracy and detail, and let me know if you see needs for important changes/clarifications. I will get a final product to Reid after hearing back from you.  
Thanks and have good (well deserved) weekends!

Eric

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Talking points as to why 10(j) is appropriate tool to allow for management of wolves in Colorado while under federal protection

- Designation of an Experimental, Non-Essential population, through Section 10(j) of the Endangered Species Act provides the greatest durability, flexibility and certainty for long-term management of wolves in the state.
  - With a 10(j) designation through a Federal Rule making process, take prohibitions are relaxed and management tools that are described in the Final Rule are allowed when the species has federal status (i.e., is under Federal protection under the Endangered Species Act).
  - If the species is federally delisted and then later relisted, or down listed to Threatened, the 10(j) rule remains durable and the management flexibility is retained.
  - Development of a 10(j) Rule can begin prior to the completion, but in conjunction with, the development of a State Wolf Management Plan.
  - While initially more expensive than other considerations described below, the long-term benefit of a 10(j) Rule justifies the time and financial expense.
- Alternatives to 10(j) have been considered, but have been deemed inferior for long-term management of wolves.
  - A 10A(1)a permit is also known as an Enhancement of Survival permit has been discussed. The development of a 10A(1)a permit could cover incidental take for otherwise lawful activities, but it does not provide the long-term, practical management tools described in a state management plan to address intentional lethal take of wolves when federally listed.
    - A 10A(1)a permit requires a completed State Management Plan to initiate the permitting process, whereas a 10(j) Rule making process can be initiated immediately.
  - Some have suggested that if the USFWS Status Review of wolves were to result in a Threatened status, an associated 4(d) rule would address the same management flexibility that could be allowed under a 10(j) designation, but this is not necessarily the case.
    - Whereas a 10(j) would be crafted to the specific management needs within the prescribed geographic designation, a 4(d) rule would be applicable to the entire geography that is affected by that designation (i.e., the entire Lower 48 United States) and would therefore not likely be specific enough to address the management concerns for Colorado.
    - It is unlikely that a status review that could result in a Threatened status and an associated 4(d) rule would be something to consider prior to the December 2023 deadline that Colorado is constrained by.